

WALTER &amp; HAVERFIELD LLP

John A. Heer  
jheer@walterhaer.com

EPA Region 5 Records Ctr.



275673

April 9, 2001

VIA FACSIMILE

202/616-6584

Annette M. Lang, Esq.  
Trial Attorney  
United States Department of Justice  
Environmental Enforcement Section  
1425 New York Avenue, NW  
Washington, D.C. 20005

Re: *Skinner Landfill in West Chester, Ohio*

Dear Ms. Lang:

We are in receipt of your letter dated April 4, 2001, regarding settlement of the United States' claims against the "Non-settling PRPs," including my client, Sealy, Inc. ("Sealy"). I write to confirm that Sealy has reached an agreement in principle with U.S. EPA Region V Counsel for a "global settlement resolving all claims against Sealy related to the Site," as described in Mr. Melodia's letter to me dated January 30, 2001. We await the draft consent decree mentioned in your April 4<sup>th</sup> letter and look forward to working with you to bring this matter to a conclusion. Please feel free to contact me at your convenience to discuss settlement further.

Very truly yours,

John A. Heer

cc: Kenneth Walker, Esq. (via fax)  
Ralph E. Cascarilla, Esq.

WALTER &amp; HAVERFIELD LLP

Attorneys at Law / Foreign Legal Consultants / International Law Agents

274863-1

1300 Terminal Tower • 50 Public Square • Cleveland, Ohio 44113-2253 U.S.A.

Tel: 216-781-1212 • Fax: 216-575-0911



## U.S. Department of Justice

## Environment and Natural Resources Division

Environmental Enforcement Section  
P.O. Box 7611  
Washington, DC 20044-7611

Telephone (202) 514-2750  
Facsimile (202) 616-6584

April 4, 2001

**VIA TELECOPY AND REGULAR MAIL**Counsel for Non-Settling PRPs<sup>1/</sup>Re: **Skinner Landfill Superfund Site: Indirect Cost Increases**

Dear Counsel:

On June 20, 2000, the United States sent you a letter giving notice of proposed changes in United States Environmental Protection Agency ("USEPA") indirect cost accounting methodology for Superfund sites. A copy of the guidance announcing the changes was attached to that notice letter. *See EPA Guidance on Exercising CERCLA Enforcement Discretion in Anticipation of Full Cost Accounting Consistent With the "Statement of Federal Financial Accounting Standard No. 4" ("Guidance")*, 65 Fed. Reg. 35339-01 (2000).

The notice letter estimated that application of the new methodology in this case could increase indirect costs for the Skinner Landfill Superfund Site ("Site") by perhaps \$500,000 to \$600,000, thereby increasing the government's claim for response costs against your client. That notice letter extended until October 2, 2000, application of the old methodology to any settlement reached with your client. This letter extends until May 15, 2001, application of the old methodology to any settlements. This will be the final extension.

**PLEASE TAKE NOTICE THAT IF WE DO NOT HAVE THE SIGNATURE PAGE OF YOUR CLIENT ON A CONSENT DECREE BY MAY 15, 2001, THE NEW METHODOLOGY WILL BE APPLIED TO ANY SETTLEMENT REACHED AFTER THAT DATE TO REFLECT THE CHANGE IN USEPA'S INDIRECT COSTS AT THE SITE.**

The United States has extended a settlement offer to all of the non-settling parties listed in Attachment A -- except for Bushelman -- based on the old indirect cost rates.<sup>2/</sup> We have

<sup>1/</sup> This letter is being sent to counsel for the Non-settling PRPs listed in Attachment A to this letter.

<sup>2/</sup> With respect to Bushelman, we are reviewing its claims of a limited ability to pay. We may need further information from Bushelman, and we will advise Bushelman shortly.

reached an agreement in principle with two of you, and for you two, we intend to present a Consent Decree for your signature in enough time to meet the May 15, 2001 deadline. The rest of you continue to contemplate the settlement offer that Assistant Regional Counsel Craig Melodia made in his letter of March 20, 2001. You have not made any counteroffers. This is to advise you that the offer extended in Mr. Melodia's March 20, 2001 letter will expire on May 1, 2001 (we need two weeks thereafter to finalize the consent decree). Thus, I would urge those of you who have not responded to the March 20 offer to contact, as soon as possible, Mr. Melodia at USEPA, Region 5, Office of Regional Counsel, 77 W. Jackson Blvd., Chicago, Illinois 60604, (312) 353-8870.

No extensions will be granted.

Sincerely,



Annette Lang  
Trial Attorney

attachment

cc: via facsimile:  
Craig Melodia, USEPA, Region 5 (312-886-7160)

ATTACHMENT A

Acme Wrecking Co., Inc.  
Charles M. Meyer, Esq.  
Santen & Hughes  
312 Walnut Street, Suite 3100  
Cincinnati, OH 45202  
FAX (513) 721-7377

Aeronca, Inc.  
David E. Northrop, Esq.  
Samuels and Northrop  
180 East Broad Street, Suite 816  
Columbus, OH 43215  
FAX (614) 464-0709

John F. Bushelman Construction, Inc.  
John F. Bushelman Trust  
G. Robert Hines, Esq.  
2525 Kroger Building  
1014 Vine Street  
Cincinnati, OH 45202  
FAX (513) 721-2064

David Hirschberg Co.  
David Reichert, Esq.  
Porter Wright Morris & Arthur  
250 East Fifth Street  
Cincinnati, OH 45202-5117  
FAX (513) 421-0991

Sealy  
John Heer, Esq.  
Walter & Haverfield  
1300 Terminal Tower  
Cleveland, Ohio 44113-2253  
FAX (216) 575-0911

John J. Whitton Trucking, Inc.  
Kevin J. Hopper, Esq.  
Southampton Square  
7434 Jager Court  
Cincinnati, OH 45230  
FAX (513) 232-7654